

**VIRGINIA: IN THE CIRCUIT COURT OF LOUDOUN COUNTY**

**IN RE: ZONING ORDINANCE**

**AMENDMENTS ENACTED**

**BY THE BOARD OF SUPERVISORS**

**OF LOUDOUN COUNTY ON**

**JANUARY 6, 2003**

**(CONSOLIDATED CASES)**

**CHANCERY # 03ZOA000-00**

**(CONSOLIDATED)**

**THIS DOCUMENT RELATES TO:**

Gas Mart Corp.,	Chancery No. 22404
South Orchard LC,	Chancery No. 22448
Roland LC,	Chancery No. 22449
Route 705 LC,	Chancery No. 22450
Yardland LC,	Chancery No. 22451
Route 620 LC,	Chancery No. 22452
Broad Run Village LC,	Chancery No. 22453
Highland Properties LC,	Chancery No. 22454
Braddock II LC,	Chancery No. 22455
Loveland LC,	Chancery No. 22456
Braddock West LC,	Chancery No. 22457
Two Green/Braddock LLC,	Chancery No. 22463
Evergreen Assc. LC,	Chancery No. 22464
Loyalty Assoc. LC,	Chancery No. 22465
Wray S. Dawson et.al.,	Chancery No. 22466
Gum Springs Assoc. LC,	Chancery No. 22467
Prince LC,	Chancery No. 22468
David L. Hunter,	Chancery No. 22470
Batal Builders-Belle Terra LC,	Chancery No. 22471
Batal Builders-Bodmer LC,	Chancery No. 22472
Winchester Homes Inc.,	Chancery No. 22473
Winchester Homes Inc.,	Chancery No. 22474
Winchester Homes Inc.,	Chancery No. 22475
Winchester Homes Inc.,	Chancery No. 22476
Winchester Homes Inc.,	Chancery No. 22477
South Village Land LLC et al,	Chancery No. 22478
River Creek LLC,	Chancery No. 22479
MB Waterford View LLC,	Chancery No. 22480
Cornell/Loudoun Farm LLC,	Chancery No. 22481
Lawrence V. Phillips, et al,	Chancery No. 22482

Lawrence V. Phillips, et al,	Chancery No. 22483
Lawrence V. Phillips, et al,	Chancery No. 22484
PBH Rolling Hills LLC,	Chancery No. 22485
The Stoneleigh Group Inc.,	Chancery No. 22486
PBH Saratoga LLC,	Chancery No. 22487
Black Oak Development, LC,	Chancery No. 22488
The Stoneleigh Group LLC,	Chancery No. 22489
Irish Corner LLC, et al,	Chancery No. 22490
David L. Hunter,	Chancery No. 22492
Lee Jackson Shockey et al,	Chancery No. 22493
Lee Jackson Shockey et al,	Chancery No. 22494
Two Greens/Kirkpatrick LLC,	Chancery No. 22495
Fox Hall LC,	Chancery No. 22496
Cascades/Lowes Island LLC,	Chancery No. 22497
Lee Jackson Shockey et al,	Chancery No. 22498
Prairie LLC,	Chancery No. 22499
Evergreen Assoc. LC et al,	Chancery No. 22500
Henry C. Mackall, Trustee et al,	Chancery No. 22501
Jonathan C. St.Clair Sr., et al,	Chancery No. 22502
Hunter Properties Inc.,	Chancery No. 22503
Douglas D. Walker, Trustee,	Chancery No. 22504
Henry C. Mackall, Trustee et al,	Chancery No. 22505
Curtis C. Shockley, et al,	Chancery No. 22506
Barclay Ridge LLC,	Chancery No. 22507
Albert E. Mercker Jr., et al,	Chancery No. 22508
Triple Crown Endeavors LTD,	Chancery No. 22509
Suzanne W. Wright, Trustee,	Chancery No. 22510
Brian & Lisa Burke,	Chancery No. 22511
Glenn R. Noffsinger,	Chancery No. 22512
Westview Stables Inc.,	Chancery No. 22513
Timothy J. Opeka et al,	Chancery No. 22514
Elysian Land Inc., et al,	Chancery No. 22515
Estate of Albert Moran, Philip Smith,	Chancery No. 22516
Michael E. Cummins, et al,	Chancery No. 22517
Donald J. Evans, et al,	Chancery No. 22518
Rita Digiulian,	Chancery No. 22519
George Allen Parker,	Chancery No. 22520
John P. Wood, et al,	Chancery No. 22521
James B. Cross, LLC, et al,	Chancery No. 22522
George R. Huber, et al,	Chancery No. 22523
Soheir N. Assad,	Chancery No. 22524
Richard W. Phelps,	Chancery No. 22525
Lovettsville Sunrise Limited Partnership,	Chancery No. 22526
Waxpool Village, LC,	Chancery No. 22527

Henry S. Fiedler, Trustee,	Chancery No. 22528
Wyant Farm Assoc., EJ Wyant, TR,	Chancery No. 22529
Keg Assoc. II et al,	Chancery No. 22530
William K. Reilly, et al,	Chancery No. 22531
Roy Stiltner, et al,	Chancery No. 22532
William H. Cockerill, Jr,	Chancery No. 22533
Edward H. Sunshine, et al,	Chancery No. 22534
James William Leigh,	Chancery No. 22535
Mark A. Johnson, et al,	Chancery No. 22536
Brent H. Mercke,	Chancery No. 22537
Papec Silo Creek, LLC,	Chancery No. 22538
Westerra Evergreen Mills, LLC,	Chancery No. 22539
Dulles Trade Center I, LP,	Chancery No. 22540
Broadlands Associates,	Chancery No. 22541
Dulles Trade Center II, LP,	Chancery No. 22542
Dulles Trade Center III, LP,	Chancery No. 22543
Arcadia Development Co.,	Chancery No. 22544
Kenneth Sherper, et al,	Chancery No. 22545
Eagle Creek, LLC et al,	Chancery No. 22546
George Mokhiber, et al,	Chancery No. 22547
Randall Kelly, et al,	Chancery No. 22548
Anthony G. Antonioli, et al,	Chancery No. 22549
J. Mark Caldwell, et al,	Chancery No. 22550
Nicholas/Farkas Joint Venture,	Chancery No. 22551
Wildwood Farms, LP,	Chancery No. 22552
South Auburn, LP, et al,	Chancery No. 22553
Waterford Creek, LLP,	Chancery No. 22554
The Stoneleigh Group, Inc.,	Chancery No. 22555
Estate of Albert Moran, by P/R Phillip Smith,	Chancery No. 22556
Nancy H. O'Connor, et al,	Chancery No. 22557
Washington Homes, Inc of VA,	Chancery No. 22558
Beaumeade Technology Park LLC,	Chancery No. 22559
Gilberts Corner Limited Partnership,	Chancery No. 22560
Alba Financial Corporation, et al,	Chancery No. 22561
Wright Farm, LLC,	Chancery No. 22562
Comstock Flynns Crossings, LC,	Chancery No. 22563
Rose Hill Estates, Inc.,	Chancery No. 22564
Herbert J. Miller, Jr., et al,	Chancery No. 22565
Randolph D. Rouse, Trustee,	Chancery No. 22566
Foothills, LLC, et al,	Chancery No. 22567
PVR, LLC,	Chancery No. 22568
NCL V, LLC,	Chancery No. 22569
Mill Road Farm, Inc, et al,	Chancery No. 22570
Cornell/Loudoun Farm, LLC,	Chancery No. 22571

Mary J. Windle, et al,	Chancery No. 22572
Rock Springs Properties, LLC,	Chancery No. 22573
Burke & Herbert Bank & Trust Co.,	Chancery No. 22574
South Riding LP, et al,	Chancery No. 22575
Salavatore J. Cangiano,	Chancery No. 22577
Dulles/Berry Ltd. Parnership,	Chancery No. 22578
Brenda H. Guritsky, et al,	Chancery No. 22579
Brenda H. Guritsky, et al,	Chancery No. 22580
Pinebrook, LLC,	Chancery No. 22581
Selma Estates, LLC,	Chancery No. 22582
Waxpool Associates LLC et al,	Chancery No. 22583
Laura L. Grant, et al,	Chancery No. 22584
Yoon S. Park, et al,	Chancery No. 22585
Sanford, LLC,	Chancery No. 22586
R & C Investments LC,	Chancery No. 22587
Brambleton Group, LLC, et al,	Chancery No. 22588
South Riding LP,	Chancery No. 22589
Salvatore J. Cangiano,	Chancery No. 22590
Toll VA, LP,	Chancery No. 22591
The Drees Company,	Chancery No. 22592
Wright Farm, LLC,	Chancery No. 22593
Allfirst Trust Company, NA, Trustee et al,	Chancery No. 22594
Toll VA IV, LP,	Chancery No. 22595
H. Powers Thomas, et al,	Chancery No. 22596
Byrd LLC, et al,	Chancery No. 22597
Hazout, S.A.,	Chancery No. 22598
T. William Dowdy, et al,	Chancery No. 22599
Toll VA IV, LP,	Chancery No. 22600
Grenata, LLC,	Chancery No. 22601
Toll VA, LP,	Chancery No. 22602
Gerald C. Despain, et al,	Chancery No. 22603
Estate of Anne D. Cockerill, et al,	Chancery No. 22604
Fort Bacon Farm, Inc.,	Chancery No. 22605
William H. Cockerill, Jr.,	Chancery No. 22606
The Hamlets of Blue Ridge, LLC, et al,	Chancery No. 22607
Four Sons Family, LLC,	Chancery No. 22608
Waterford Downs, LLC,	Chancery No. 22609
Chestnut Hills, LLC,	Chancery No. 22610
Equity Homes, LLC,	Chancery No. 22611
Leesburg Airport Associates LC,	Chancery No. 22612
Beazar Homes Corp, et al,	Chancery No. 22613
VMK Associates, et al,	Chancery No. 22614
Frazier Estates, LLC,	Chancery No. 22615
Old Wheatland Road, LLC, et al,	Chancery No. 22616

Lawrence V. Phillips, et al,	Chancery No.	22617
Glaydin Hamlet , LLC,	Chancery No.	22618
Salvatore J. Cangiano,	Chancery No.	22619
Salem Farms, LLC,	Chancery No.	22620
Pulte Home Corporation, et al,	Chancery No.	22621
Suzanne Wright, et al,	Chancery No.	22622
Riggs & Company, et al,	Chancery No.	22623
Lakehill Associates, LC,	Chancery No.	22624
Kline Operations, LC, et al,	Chancery No.	22625
Stafford Kline, LLC,	Chancery No.	22626
Loyalty Road, LLC, et al,	Chancery No.	22627
Loyalty Road LLC,	Chancery No.	22628
Courtland Farm Loudoun , LLC,	Chancery No.	22629
Glynn Tarra Estates, LLC,	Chancery No.	22630
Loudoun Kline Vantage, LLC, et al,	Chancery No.	22631
Dennis M. Virts, et al,	Chancery No.	22632
Locust Grove, LLC,	Chancery No.	22633
Toll Land IX LP,	Chancery No.	22634
Loudoun Valley Assc. LP,	Chancery No.	22635
Centex Homes,	Chancery No.	22636
Landsdowne Comm. Dvlpmnt , LLC, et al,	Chancery No.	22637
Birchwood-Woodland Village Assoc LLC,	Chancery No.	22638
Loudoun Valley Assc. LP,	Chancery No.	22639
Emerson H. Beier, et al,	Chancery No.	22640
Gas Mart Corp,	Chancery No.	22641
Gilberts Corner Investments,	Chancery No.	22642
Mary M. Ball,	Chancery No.	22643
William Wright, et al,	Chancery No.	22644
Nellco LLC et al,	Chancery No.	22645
Robert J. Roth, et al,	Chancery No.	22646
Carrie Anna Draisey, et al,	Chancery No.	22647
Nancy H. O'Connor, et al,	Chancery No.	22648
Toll VA, LP,	Chancery No.	22649
Belmont Land LP,	Chancery No.	22650
Toll VA,	Chancery No.	22651
Toll Cedar Hunt LLC,	Chancery No.	22652
Equity Homes, LLC,	Chancery No.	22653
Edward N. Pickering, et al,	Chancery No.	22654
Salvatore J. Cangiano,	Chancery No.	22655
Stone Ridge Comm. Dvlpmnt, LLC, et al,	Chancery No.	22656
Xerox Realty Corporation,	Chancery No.	22657
Thoroughbred Productions Inc, et al,	Chancery No.	22660
Louise L. Preble, et al,	Chancery No.	22661
Triple Crown Endeavors, Ltd,	Chancery No.	22662

**CONSOLIDATED DECREE NO. 1**

[PRETRIAL JOINDER OF COMMON ISSUES OF LAW AND FACT THAT  
ARE POTENTIALLY DISPOSITIVE].

IT APPEARING to the Court that there is a need for consolidation of cases presently on the Court's docket, the Court finds: 1) there are more than six cases pending on its docket challenging the recent enactment of amendments to the Loudoun County Zoning Ordinance (Zoning Ordinance Cases); 2) the respondent has made a motion to consolidate these cases; 3) these cases involve common questions of law or fact; 4) these cases arise out of the same transaction, occurrence or series of transactions or occurrences; 5) the common questions of law or fact predominate and are significant to the actions; and 6) this consolidation order: (i) will promote the ends of justice and the just and efficient conduct and disposition of the actions; (ii) is consistent with each party's right to due process of law; and (iii) does not prejudice each individual party's right to a fair and impartial resolution of each action.

IT FURTHER APPEARING that to promote the ends of justice through the efficient conduct of its docket, it was necessary for the Court to exercise its power to modify the filing deadlines as prescribed by the Rules of the Supreme Court of Virginia and to stay discovery pending comments from all parties regarding the procedure to be utilized in the determination of the common questions of fact and law presented by these Zoning Ordinance Cases, and to that end the Court entered an Order on February 25, 2003, inviting comments from all parties in contemplation of a possible consolidation of certain claims for hearing.

IT FURTHER APPEARING that various parties have responded to this invitation of the Court, and that procedures regarding the conduct of these cases have been suggested, that these suggestions merit adoption, at least in part, by the Court at this time.

ACCORDINGLY, it is **ORDERED AND DECREED** that the following procedures be adopted to guide litigation in these cases, excepting only to the extent modified by the Court.

### ***Partial Consolidation and Stay***

***Limited Consolidation of Claims:*** All Zoning Ordinance Cases filed as of the entry of this Decree and identified in the caption to this Decree are consolidated for those specific pretrial purposes identified in this Decree. This does not constitute a determination that these cases should be consolidated for trial or consolidated for any other purposes other than those specifically identified by this Decree as worthy of consolidation at this time.

***Objections to Consolidation:*** Any party desiring to object to partial consolidation as set forth in this Decree shall file their objections with the Court and serve copies upon counsel for the other complainants and the Respondent, by June 15, 2003, at 5:00 p.m. Individual objections to consolidation shall be heard on June 20, 2003, at 1:00 p.m. Such objections will be decided on a case-by-case basis consistent with the rights of the parties and the proper management of the docket of the Court. If the Court determines that a claim should be severed from the other consolidated claims, the Court will enter a Decree severing the case from the other consolidated cases. Within 10 days of the entry of the Decree determining that an objecting party should be severed from other consolidated

claims, such party making the objection may elect *in writing* filed with the Court and mailed to all counsel of record, to withdraw such objection and be joined the consolidated cases.

***Temporary Stay of Proceedings:*** Other than as to the pretrial proceedings and procedures specifically authorized by this Decree, all proceedings in Consolidated Cases, are stayed pending further Decree of this Court. Pending the identification of all common questions of fact and law, the stay shall affect all pleadings and papers including those that address issues other than the common questions of fact and law.

***Relief from stay:*** This Decree shall not preclude any party subject to this Decree from requesting, by motion, at any time, upon proper notice and hearing before this Court, relief from the stay based upon a showing of good cause. Any such motion should be noticed for hearing in accordance with the usual scheduling procedures utilized by this Court.

### ***Determination and Adjudication of Common Issues***

***Identification of Issues Common to these Consolidated Cases and that are Potentially Dispositive:*** By August 1, 2003, at 5:00 p.m., counsel for the Respondents and the Litigation Steering Committee, described hereinafter, shall file written statements with the Court. These statements shall identify the common questions of fact and law that each of the parties believes to be potentially dispositive (in whole or in part) of the cases or claims. The Court is of the opinion that there are such common questions of fact and law. The Respondents and the Litigation Steering Committee may file counter-statements on or before August 15, 2003, at 5:00 p.m., explaining why the issues identified by the opposing party are not common and potentially dispositive to the Consolidated Cases.



***Hearing on the Issues Identified by the Parties as Common to these Consolidated Cases and that are Potentially Dispositive:*** Oral Argument as to identification of issues common to these Consolidated Cases shall be heard on August 22, 2003, commencing at 1:00 p.m. Parties may participate in person or by phone. Counsel wishing to participate by phone should contact the Clerk in advance of the hearing. Persons to participate by phone shall contact the Clerk by written praecipe at least 10 days prior to the hearing. Upon the completion of that hearing the Court will determine, in writing, those common issues that will be subject of this Consolidated proceeding. The Court has given and will give priority on its docket to motions, pleas, or hearings designed to resolve these common issues.

***Filing of Master Pleading as to Issues Identified by the Court as Common to these Consolidated Cases and that are Potentially Dispositive:*** On or before September 14, 2003, at 5:00 p.m., the Litigation Steering Committee shall file a Master Supplemental Pleading setting forth those claims that may relate to the issues identified by the Court as common and potentially dispositive. The Respondent may then file such responsive pleadings to the Master Supplemental Pleading on or before October 3, 2003.

***Discovery with Respect to Master Supplemental Pleading and the Response to the Master Supplemental Pleading:*** The parties may engage in discovery as provided by the Rules of the Supreme Court of Virginia with respect to the issues raised by the Master Supplemental Pleading and the Response to the Master Supplemental Pleading. Discovery shall commence as to the issues raised by the Master Supplemental Pleading, and any response thereto, on September 14, 2003. All discovery shall be completed as to

the Master Supplemental Pleading and the response, by November 1, 2003, at 5:00 p.m., unless otherwise extended or modified by the Court.

***Briefing Schedule with Respect to Master Pleading:*** The parties shall contemporaneously file their initial memoranda in support of their Master Supplemental Pleading or the Response by November 14, 2003, at 5:00 p.m. Each party shall file its reply memoranda by November 20, 2003, at 5:00 p.m. No written memoranda shall exceed thirty (30) pages in length, (double spaced), unless otherwise authorized by the Court.

***Hearing(s) on the Master Supplemental Pleading:*** A hearing on the Master Supplemental Pleading and the Response shall be held on November 24, 25, and 26, 2003, commencing at 10 a.m. each day.

### ***Filing and Docketing***

***Creation of Master File, Case Management, and Related Filing Issues:*** The Clerk is authorized, while these proceedings are pending, to create a separate case management system for the retention and automated case management of these cases. The Clerk of this Court shall create a Master File for these consolidated pretrial proceedings upon the entry of this decree. The file shall be assigned a separate chancery number and placed in the case management system. The caption for this Master File shall be:

***“IN RE: ZONING ORDINANCE AMENDMENTS  
ENACTED BY THE BOARD OF SUPERVISORS  
OF LOUDOUN COUNTY ON JANUARY 6, 2003  
(CONSOLIDATED CASES)***

***CHANCERY# \_\_\_\_\_  
(CONSOLIDATED).”***

All decrees, pleadings, motions, and other documents, when filed in the Master File and docketed as such with the case management system, and after being served upon counsel of record in each case to which the filing applies, will be deemed to have been filed and docketed in each individual case to the extent applicable by the pleading.

Separate case files shall be maintained for each individual case that is the subject of this Decree of Consolidation. When a filing is applicable to all of the consolidated cases, it need only be filed in the Master File and a notation made in the individual file reflecting such filing. When a filing is applicable to some, but not all, of the consolidated cases, a copy of the filing should be filed in the Master File and in each individual file to which the filing is applicable.

When a case is docketed for hearing and a filing is applicable to an individual file, and to the consolidated file, only the consolidated file shall be indicated on the automated case management docket. The Clerk shall make a notation in the individual file indicating the nature of the filing and the date of filing. When a pleading is filed, and its caption shows that it is to be applicable to some but not all of the cases included within this Consolidated Decree, the Clerk shall docket the case by individual case file(s) and by this consolidated file.

The parties shall furnish sufficient copies of the pleadings to ensure compliance with the terms of this Decree.

The Clerk shall file the original of this Decree in the Consolidated File and a copy in each individual file for the cases included in this Decree of Consolidation. The contents of the Consolidated File shall be deemed incorporated in, and made a part of, the

file in each of the cases consolidated by this Decree, without the necessity of any further action of the Court or the Parties, regardless of whether any specific document or pleading filed in the Consolidated File is also separately filed in the individual case file.

All filings in this Consolidated File by the Steering Committee or Respondent shall be accompanied by a CD recording with the text of such filings in *Windows for Word* format. The CD shall be clearly marked as to the pleading and date of filing.

### ***Caption of Consolidated Cases***

Every paper filed in this Consolidated Case shall bear the following caption:

**“V I R G I N I A: IN THE CIRCUIT COURT OF LOUDOUN COUNTY  
IN RE: ZONING ORDINANCE AMENDMENTS  
ENACTED BY THE BOARD OF SUPERVISORS  
OF LOUDOUN COUNTY ON JANUARY 6, 2003  
(CONSOLIDATE CASES)**

**CHANCERY NO. \_\_\_\_\_  
(CONSOLIDATED)**

**THIS DOCUMENT RELATES TO:**

\_\_\_\_\_.”

When a paper is intended to be applicable to all of the cases to which this Decree of Consolidation is applicable, the words, “ALL CASES” shall appear after the words “THIS DOCUMENT RELATES TO:” in the above caption.

When a paper is intended to apply to fewer than all of such cases, the style and docket number for each individual case to which the paper is intended to be applicable shall appear immediately after the words “THIS DOCUMENT RELATES TO:” in the above caption. The style of the case shall refer to the first named complainant in the case followed by “et.al.”, in the event of multiple complainants. A comma shall separate the

style of the case from the docket number. For example: "The Smith Company, et. al.,  
Chancery No. 123456"

All proposed decrees submitted to the Court for entry in the Consolidated Cases shall be titled a "Consolidated Decree" and numbered sequentially. In addition such decrees shall identify: (i) the party or parties requesting the Decree and (ii) the subject matter of the Decree. For example:

**"V I R G I N I A: I N T H E C I R C U I T C O U R T O F L O U D O U N C O U N T Y**

**I N R E: Z O N I N G O R D I N A N C E A M E N D M E N T S  
E N A C T E D B Y T H E B O A R D O F S U P E R V I S O R S  
O f L O U D O U N C O U N T Y O N J A N U A R Y 6, 2003  
(C O N S O L I D A T E D C A S E S)**

**CHANCERY NO. 56789  
(CONSOLIDATED)**

**THIS DOCUMENT RELATES TO:**

**"ALL CASES"**

**CONSOLIDATED DECREE NO. 6  
[COMPLAINANTS' MOTION TO COMPEL DISCOVERY]**

**-----."**

***The Litigation Steering Committee***

The Litigation Steering Committee, describe hereinafter and established by this Decree, shall represent all complainants in these Consolidated Cases except for those parties who object in writing on or before June 15, 2003, to having the Litigation Steering Committee handle their case and are permitted by the Court to proceed individually. Objections shall be served on all counsel of record. Objections to having the Litigation

Steering Committee handle the presentation of cases subject to this Decree will be heard at the same time as those objections to consolidation are considered on June 20, 2003.

On or before July 14, 2003, Complainants shall identify the members of the Litigation Steering Committee and the names of its Chairperson. Identification of such membership and of the chairperson shall be by a written praecipe filed with the Clerk and mailed to the parties or, if represented by counsel, to such counsel of record. The caption of such praecipe shall be the same as that designated for all papers governed by the terms of this Decree.

The Litigation Steering Committee shall consult with individual Complainants' counsels, and shall be responsible generally for coordinating the pretrial activities of the Complainants' counsels. Additionally, the Litigation Steering Committee shall have the following specific responsibilities and duties:

1. To select and identify counsel who will serve as Chairperson. The Chairperson shall have the responsibility for receiving and coordinating all communications between the Litigation Steering Committee, the Court, and counsel for the Respondents. The Chairperson shall also have such other responsibilities as may be established by the Litigation Steering Committee. The Litigation Steering Committee may appoint one or more persons to serve as Chairperson in the event that the initial Chairperson is unable to perform his or her responsibilities. In the event a Chairperson is unable to act, the Litigation Steering Committee shall promptly inform the Court and counsel for the Respondents of such disability and the name of the person selected to perform the duties of the Chairperson during the period of disability.

2. To select one or more counsel to brief, argue, or present (either personally or by a designee) to the Court and to counsel for the Respondents the position of Complainants on all matters arising during the pretrial proceedings governed by this Decree provided that, in the event that more than one counsel is designated by the Litigation Steering Committee to do so, the brief, argument, presentation or actions by each will not be repetitive or duplicative.

3. To coordinate, conduct, and respond to certain specific discovery on behalf of the Complainants, consistent with this Decree and the Rules of the Supreme Court of Virginia including with regard to common questions of fact and law, the preparation of joint interrogatories, requests for admissions, requests for production of documents, and for the taking of depositions.

4. To monitor the activities of co-counsel to assure that all schedules are accommodated, and that all unnecessary expenditures of time and expense are avoided.

5. To perform such other necessary duties, including, but not limited to, the assessment of reasonable costs (not those of attorneys' fees) and the administration and approval of such reasonable expenses as may be necessary for proper administration and coordination of Complainants' pretrial activities, or as may be authorized by further Decree of the Court. The initial assessment for such costs shall not exceed \$500.00 per case as determined by the Litigation Steering Committee within 40 days from the entry of the Decree. No additional assessment for costs shall be made without further Decree of this Court and notice to the Complainants' counsel.

6. Notwithstanding any other provision of this Decree, counsel in the Consolidated Cases for any of the Complainants who disagree with the Litigation

Steering Committee's position on a particular issue, motion, discovery, or Decree, or who have individual or divergent positions, or have been excused by the Court from representation by the Committee, may present written and oral arguments, and they may conduct examinations of deponents, and otherwise act separately; provided that, in so doing they do not repeat arguments, questions, or actions of counsel selected in accordance with this Decree to represent the Complainants through the Litigation Steering Committee.

### ***Joint Litigation Privilege***

To facilitate the preparation of materials for trial, all discussions and communications between and among counsel for Complainants, the individual Complainants and their agents, experts, consultants, or employees, or between or among any of those named in this paragraph, to the extent that such discussion or material relates to the preparation or prosecution of this Consolidated Proceeding whether heretofore or hereafter, are to be considered privileged and confidential, but only to the extent that such privilege and confidentiality would extend to discussion or material between counsel for a respective Complainant and its agents, experts, consultants or employees. A like privilege shall apply to communications between the Respondents, their counsel, agents, experts, consultants or employees.

### ***Attorney-Client Relationship Not Established***

Notwithstanding the requirements of this Decree for the efficient administration of this litigation, the counsel comprising the Litigation Steering Committee, and those counsel selected by the Litigation Steering Committee to prepare papers in connection with these Consolidated Cases pursuant to this Decree, shall not be deemed to have



established an attorney-client relationship with any party for which that counsel, or his or her firm, did not file a Bill of Complaint in any one or more of these Consolidated Cases, and for whom such counsel has not made either a general or special appearance.

### ***Service of Documents***

***Service on the Respondents:*** Where a pleading, motion or other paper is required to be filed or served upon the Respondents or their counsel, service pursuant to the Rules of the Supreme Court of Virginia shall be made and a copy of such pleading, motion or other paper sent as an electronic attachment in *Windows for Word* format to by electronic mail to the following:

John R. Roberts, Esquire  
County Attorney for the County of Loudoun  
One Harrison Street, S.E., 5<sup>th</sup> Floor  
Leesburg, Virginia 20177  
[jroberts@loudoun.gov](mailto:jroberts@loudoun.gov)

and

Randall T. Greehan, Esquire  
Walton & Adams, P.C.  
1925 Isaac Newton Square, Suite 250  
Reston, Virginia 20190  
[rgreehan@walton-adams.com](mailto:rgreehan@walton-adams.com)

***Service on the Complainants:*** Where a pleading, motion or other paper is required to be filed or served on the Complainants or their counsel in these Consolidated Cases, service shall be made in accordance with the Rules of the Supreme Court of Virginia, upon the Chairperson of the Litigation Steering Committee, as well as the person designated to accept service for each of the Complainants in the Consolidated Cases. Where more than one Complainant in these Consolidated Cases is represented by the same law firm, that law firm shall within 10 days from the entry of this Decree shall

provide to the Respondents' counsel the name, address, and facsimile number of one counsel designated to accept such service on behalf of those complainants, along with the case numbers for the Consolidated Cases as to which he or she has been designated to accept service. Should any law firm represent only one Complainant in these Consolidated Cases, counsel of record in that case shall be designated counsel for purpose of accepting such service. In addition, an email attachment of the document in *Windows for Word* format shall be sent to all of the Complainants or their counsel of record having electronic mail. Filing by electronic mail shall be copied to the Clerk at an electronic mail address to be designated.

***Electronic Mail Addresses:*** Within 10 days of the entry of this Decree, all parties or their counsel shall submit to the Court, by praecipe, their electronic mail addresses. In the event a party or their counsel does not have an electronic mail address, then this provision of the Decree shall not apply to such party or their counsel. Service by electronic mail shall be considered in the same manner as facsimile transmissions pursuant to the Rules of the Supreme Court of Virginia.

***Limitation on Briefs:*** Unless otherwise provided by Decree, no memorandum or brief shall be filed and served less than five (5) business days before any hearing upon the matter addressed by such memorandum or brief. Absent prior approval from the Court no brief or memoranda shall exceed twenty (30) pages in length (double spaced).

***Creation of Document Depository:*** Within five (5) working days following the entry of this Decree, counsel for the Respondents and the Litigation Steering Committee shall confer in an effort to create a document depository and rules and procedures governing the use of such a depository. Creation of such depository would involve

procedures for collecting, identifying, preserving, and accessing of all non-privileged documents that may include writings, plans, notes, analyses, videotapes, audiotapes, computer disks/diskettes and hard drive contents, including emails, computer printouts, transcripts or other documents, draft or final, in the possession, custody, or control of the Board, the Planning Commission, the Department of Planning and Staff, the Department of Building and Development, the Department of Economic Development, as well as any consultants and planning and zoning professionals retained by the Board of Supervisors or Loudoun County, and any other governmental departments or agencies of Loudoun County that relate to: (i) the Revised General Plan; (ii) the Zoning Ordinance Amendments; (iii) all drafts of the Zoning Ordinance Amendments; (iv) all proposed amendments or additions to any zoning ordinance provisions; (v) all studies, analyses, compilations, and/or reports of any kind reviewed by, or made available to the Board of Supervisors for review in connection with the consideration and/or adoption of the Zoning Ordinance Amendments, or any draft versions of the Zoning Ordinance Amendments; (vi) the processes, procedures and/or meetings by which the Board, considered and/or enacted the Zoning Ordinance Amendments and/or any drafts, proposed text amendments, or proposed ordinance provisions reviewed by the Board as part of the process that ultimately led to adoption of the Zoning Ordinance Amendments; and (vii) all motions or resolutions adopted by the Board or Planning Commission relating to the initiation of the consideration of the adoption of the Zoning Ordinance Amendments.

***List of Documents Provided to the Depository:*** On or before August 1, 2003, unless the Respondents and the Steering Committee otherwise agree, the Respondents

shall furnish to the parties and to the Court, a list of those documents they deems relevant to these proceedings and that they agrees to furnish to the depository. This list, at a minimum, shall include a general description of the items they have agreed to furnish and such items shall be Bates stamped. Those items they elect not to furnish to the depository and are the subject of a privilege claim, should be given a Bates stamp identifier and made the subject of a privilege list that complies with the provisions of the Rules of the Supreme Court of Virginia. If the Respondents elect not to transmit any document, other than on the grounds of privilege, they should state the reason limiting disclosure. In the event the parties cannot agree upon a depository, one will be designated by the Court. In any event, the depository shall be established prior to August 1, 2003, unless such deadline is otherwise modified for good cause shown.

***Limitation on Discovery:*** Except as may be otherwise provided in this Decree, the parties shall not, except upon decree of this Court and for good cause shown, engage in any discovery except discovery that is relevant and is required to dispose of the common questions of law and fact that are determined to be potentially dispositive and are the subject of this Consolidated Pre Trial Proceeding.

### ***Expedited Resolution of Vested Rights Claims***

***Prior Court Orders and Decrees:*** To the extent that the provisions of this Decree may conflict with prior rulings of the Court with reference to vested rights claims that may be subject to resolution by pretrial motion after limited discovery, those prior rulings control.

***Vested Rights Claims of Complainants:*** Vested Rights claims shall not be made the subject of the master pleading but are the subject of consolidation by this Decree. Vested Rights claims are treated separately from others suggested by the pleadings subject to this consolidation. The vested rights claims to which this Decree applies are limited to those that may be resolved on pretrial motion after limited discovery. This does not include cases where there are disputed issues of fact that may only be determined after a trial on the merits. In an effort to facilitate the expeditious resolution of any vested rights claims asserted by the Complainants, any Complainant that has asserted a claim alleging or involving impairment of any vested rights, as to all or any portion of a parcel of land, shall on or before June 30, 2003, submit to the Court and serve on Respondents' counsel a statement of facts upon which its claim of vested rights is based, along with any supporting documentation that counsel may wish to submit.

***Limited Discovery in Connection with Vested Rights Claims:*** The parties may conduct discovery that is required with respect to their vested rights claims, commencing July 1, 2003, provided that such discovery is completed by October 3, 2003. The parties shall, prior to any hearing, confer in good faith to resolve those matters through consent decrees and/or to enter into stipulations of fact with regard to Complainants' individual claims of vested rights.

***Evidentiary Hearing on Vested Rights Claims:*** The hearing of any vested rights claims is scheduled for October 27, 2003, commencing at 10:00 a.m. Consent decrees may be submitted for entry upon the endorsement of all parties, without the necessity of scheduling by the Court. Counsel are encouraged to confer in order to avoid the filing of unnecessary discovery and pretrial motions with respect to vested rights claims.

### ***Resolution of Matters by Agreement***

The parties are encouraged resolve issues raised in these pre trial proceedings by agreement. To that end, no motion concerning discovery or other pretrial matter may be filed until counsel have made a good faith effort to resolve the matter between counsel prior to filing the motion. All motions, or notice of motions, must contain the appropriate certificate of counsel that complies with the Rules of the Supreme Court of Virginia.


### ***Scheduling of Future Hearings***

The Scheduling Deadlines established On Exhibit "A" are incorporated in and made a part of this Decree.

This Decree may be amended or modified by the Court upon the motion of any party following reasonable notice given to all parties.

AND THESE CONSOLIDATED CASES ARE CONTINUED.

ENTERED this 6<sup>th</sup> day of June 2003.

  
Thomas D. Horne, Chief Judge

Seen and \_\_\_\_\_.

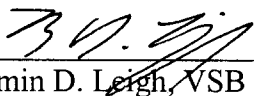
## EXHIBIT "A"

Scheduling Time Line Consolidated Cases  
Pre-trial Dispositive Issues  
Deadlines

1. Entry of Decree of Partial Consolidation of Pre-Trial Issues and Stay of Discovery.....June 6, 2003
2. Written Objections to Consolidation to be filed.....June 15, 2003
3. Hearing on Objections to Consolidation.....June 20, 2003 1:00 P.M. (2 hours)
4. ***Statements of Vested Rights Claims to be Filed.....June 30, 2003***
5. ***Response to Vested Rights Claims.....July 1, 2003***
6. Identification of Litigation Steering Committee.....July 14, 2003
7. Creation of Document Depository..... August 1, 2003
8. ***Discovery commences re: vested rights claims.....July 1, 2003***
9. Submission of statements Re: Issues for Consolidation...August 1, 2003
10. Counter Statements Re: Issues for Consolidation.....August 15, 2003
11. Argument on Common Pretrial Dispositive Issues.....August 22, 2003 1:00 P.M. (2 hours)
12. ***Vested rights claims conference between individual Complainants and Respondents.....August 22, 3P.M. (2 hours)***
13. ***Initial pre-trial conference on vested rights claims...September 11, 2003 9:00A.M. (1 hour)***
14. Filing of Master Supplemental Pleading.....September 14, 2003
15. Filing of Supplemental Individual Pleadings (matters not raised by Master Pleading).....September 14, 2003
16. Filing of Response to Master Supplemental Pleading and Supplemental Individual Pleadings .....October 3, 2003
17. Discovery commences re: issues in Master Supplemental Pleading...September 14, 2003
18. ***Discovery cut-off vested rights claims.....October 3, 2003***
19. ***Hearing on Vested Rights Claims.....October 27, 2003 10:00 A.M. (1 day)***
20. Discovery cut-off Supplemental Pleadings.....November 1, 2003
21. ***Decision on Vested Rights Claims.....November 21, 2003***
22. ***Entry of Decree reflecting decision on vested rights claims.... December 5, 2003***
23. Memoranda Filed on Common Issues (simultaneous).....November 14, 2003
24. Reply memoranda filed on Common Issues (simultaneous)...November 20, 2003
25. Hearing on Common Dispositive Issues.....November 24, 25, 26, 2003 10:00 A.M. (3 days).
26. Decision on Common Dispositive Issues.....December 15, 2003
27. Entry of Decree reflecting decision on common issues. ....December 19, 2003
28. Initial Pre-trial conference on scheduling of merits hearings in cases not resolved through consolidated proceedings.....January 8, 2004 10:00 A.M. (2 hours).

**SEEN AND OBJECTED TO, BY SPECIAL APPEARANCE**, by those Complainants listed below, that have not received notice of the entry of the proposed Order or of any Motion to consolidate as referenced as required by the Rules of the Supreme Court of Virginia and the common practices of this Court, reserving all rights to object to the substance, timing and content of this Order upon a properly noticed hearing upon a date certain.

MIMS, ATWILL & LEIGH, P.C.

  
\_\_\_\_\_  
Benjamin D. Leigh, VSB # 40460  
101 N. King Street  
Leesburg, Virginia 20176  
(703) 777-4000 (phone)  
(703) 777-4001 (facsimile)  
[batwill@malpc.net](mailto:batwill@malpc.net)  
[leigh@malpc.net](mailto:leigh@malpc.net)

On behalf of the following Complainants:

<u>Cause Style</u>	<u>Chancery #</u>
Cornell/Loudoun Farm, L.L.C. v. Board of Supervisors	22481
Lawrence V. Phillips, et als v. Board of Supervisors	22482
Lawrence V. Phillips, et als v. Board of Supervisors	<del>22483</del>
Lawrence V. Phillips, et als v. Board of Supervisors	<del>22484</del>
Lawrence V. Phillips, et als v. Board of Supervisors	22617
Glaydin Hamlet, LLC v. Board of Supervisors	22618

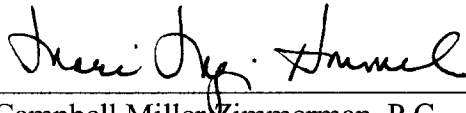


**This endorsement relates to:**

**IN RE: ZONING ORDINANCE AMENDMENTS  
ENACTED BY THE BOARD OF  
SUPERVISORS OF LOUDOUN COUNTY  
ON JANUARY 6, 2003  
(CONSOLIDATED CASES)**

**CONSOLIDATED DECREE NO. 1**

**SEEN AND OBJECTED TO** on the grounds that the stay has been and continues to be injurious to the property rights of the Complainant, and prejudicial to their opportunity to discover relevant information critical to the litigation:



Campbell Miller Zimmerman, P.C.  
James P. Campbell, Esq. (VSB #25097)  
Mari Maginn Hommel, Esq. (VSB #20776)  
19 East Market Street  
Leesburg, Virginia 20176  
703-771-8344  
703-777-1485 (fax)  
Counsel for the following Complainants:

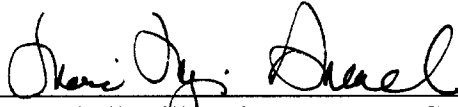
Emerson H. Beier, et als.	Chancery No. 22640
Gas Mart Corp.	Chancery No. 22641
Mary M. Ball	Chancery No. 22643
William Wright et al.	Chancery No. 22644
NELLCO L.L.C., et al.	Chancery No. 22645
Robert J. Roth, et al.	Chancery No. 22646
Carrie Ann Draisey et al.	Chancery No. 22647

**This endorsement relates to:**

**IN RE: ZONING ORDINANCE AMENDMENTS  
ENACTED BY THE BOARD OF  
SUPERVISORS OF LOUDOUN COUNTY  
ON JANUARY 6, 2003  
(CONSOLIDATED CASES)**

**CONSOLIDATED DECREE NO. 1**

**SEEN AND OBJECTED TO** on ground that it is injurious to the Complainant that it is required to litigate the validity of zoning map amendments that were never adopted by the Board of Supervisors:



Campbell Miller Zimmerman, P.C.  
James P. Campbell, Esq. (VSB #25097)  
Mari Maginn Hommel, Esq. (VSB #20776)  
19 East Market Street  
Leesburg, Virginia 20176  
703-771-8344  
703-777-1485 (fax)  
Counsel for the following Complainants:

Gas Mart Corp.

Chancery No. 22404

**LeCLAIR RYAN****ALEXANDRIA OFFICE:**  
TELEPHONE: (703) 684-8007**BLACKSBURG OFFICE:**  
TELEPHONE: (540) 961-2762**CHARLOTTESVILLE OFFICE:**  
TELEPHONE: (434) 245-3444**INNESBROOK OFFICE:**  
TELEPHONE: (804) 270-0070**NORFOLK OFFICE:**  
TELEPHONE: (757) 624-1454**RICHMOND OFFICE:**  
(804) 783-2003**WASHINGTON, D. C. OFFICE:**  
TELEPHONE: (202) 659-4140**A PROFESSIONAL CORPORATION**  
**ATTORNEYS AT LAW**  
225 REINEKERS LANE, SUITE 290  
ALEXANDRIA, VIRGINIA 22314TELEPHONE: (703) 684-8007  
FACSIMILE: (703) 684-8075**MICHELLE A. ROSATI**DIRECT DIAL: (571) 431-6025  
DIRECT FAX: (703) 684-8075  
E-MAIL: [myrosati@leclairryan.com](mailto:myrosati@leclairryan.com)INTERNET: [www.leclairryan.com](http://www.leclairryan.com)

FILE NUMBER: 12858.001

**FACSIMILE MESSAGE****DATE: June 5, 2003**  
**TOTAL PAGES: 3**

FOR CONFIRMATION OR TO REPORT PROBLEMS, CALL (703) 684-8007

<b>NAME: The Honorable Thomas D. Horne, Chief Judge</b>	<b>FILE NO.: 12858.001</b>
<b>FIRM:</b>	
<b>LOCATION: Circuit Court for Loudoun County</b>	
<b>FACSIMILE NUMBER: 703-777-0676</b>	

<b>FROM: Michelle A. Rosati</b>

**COMMENTS:**

**NOTE:** The information contained in this facsimile message may be attorney client privileged and confidential information, intended only for the use of the individual or entity named above. If the reader of this message is not the intended recipient, you are hereby notified that any dissemination, distribution or copy of this communication is strictly prohibited. If you have received this communication in error, please notify us immediately by telephone and return the original message to us at the above address via the United States Postal Service. Thank you.

## LECLAIR RYAN

A PROFESSIONAL CORPORATION

ATTORNEYS AT LAW  
225 REINEKERS LANE, SUITE 290  
ALEXANDRIA, VA 22314

TELEPHONE: (703) 684-8007  
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ALEXANDRIA OFFICE:  
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CHARLOTTESVILLE OFFICE:  
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INNESBROOK OFFICE:  
TELEPHONE: (804) 270-0070

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RICHMOND OFFICE:  
TELEPHONE: (804) 783-2003

ROANOKE OFFICE:  
TELEPHONE: (804) 783-2003

WASHINGTON, D. C. OFFICE:  
TELEPHONE: (202) 659-4140

June 5, 2003

***BY FACSIMILE 703-777-0676 and U.S. Mail***

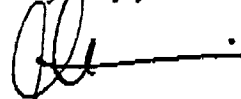
The Honorable Thomas D. Horne, Chief Judge  
Circuit Court for Loudoun County  
18 E. Market Street  
Leesburg, Virginia 20178

**Re: Zoning Ordinance Amendment Enacted by the Board of Supervisors on  
January 6, 2003 - Consolidated Decree**

Dear Judge Horne:

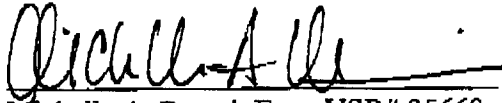
Enclosed please find Complainant's response to the proposed Consolidated Decree that the Court will enter tomorrow morning. Thank you very much.

Very truly yours,



Michelle A. Rosati  
LeCLAIR RYAN  
Counsel for Complainant Gilberts Corner Investments  
Loudoun County Chancery No. 22642

**SEEN AND OBJECTED TO** by the Complainant listed below only to the limited extent that the process established for, and the time set for, determination of vested rights claims may not suitably provide for the adjudication of those claims as set out, and that the time for determination thereof should be shortened to avoid unnecessary expense and delay in the processing of plans and the identification of what vested rights do or may exist:



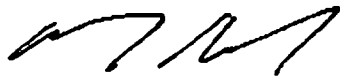
Michelle A. Rosati, Esq., VSB# 35668  
Marc B. Bergoffen, Esq. VSB#46184  
LeClair Ryan, A Professional Corporation  
225 Reinekers Lane  
Suite 290  
Alexandria, Virginia 22314  
(703) 684-8007  
(703) 684-8075 Fax  
On behalf of the following Complainant:

GILBERTS CORNER INVESTMENTS      Loudoun County, *et al.*      22642

**SEEN AND OBJECTED TO** by those Complainants listed below that have asserted claims of vested rights and only to the limited extent that the process established for, and the time set for, determination of vested rights claims may not suitably provide for the adjudication of those claims as set out, and that the time for determination thereof should be shortened to avoid unnecessary expense and delay in the processing of plans and the identification of what vested rights do or may exist:



William H. Atwill, Jr., VSB # 23543  
Benjamin D. Leigh, VSB # 40460  
Mims, Atwill & Leigh  
101 N. King Street  
Leesburg, Virginia 20178  
(703) 777-4000 (phone)  
(703) 777-4001 (facsimile)  
Counsel to Complainants

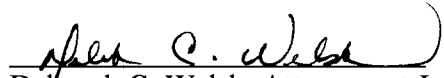


Mark Nelis, VSB #30674  
Mark Nelis, P.C.  
196 North 21<sup>st</sup> Street  
Purcellville, VA 20132  
540-338-5843  
FAX 540-338-3702

On behalf of the following Complainants:

PHB Rolling Hills, L.L.C.	Board of Supervisors, et al.	22485
The Stoneleigh Group, Inc.	Board of Supervisors, et al.	22486
PHB Saratoga, L.L.C.	Board of Supervisors, et al.	22487
Black Oak Development, L.C.	Board of Supervisors, et al.	22488
The Stoneleigh Group, Inc.	Board of Supervisors, et al.	22489
Irish Corner, L.L.C. et al.	Board of Supervisors, et al.	22490
The Stoneleigh Group, Inc.	Board of Supervisors, et al.	22555

**SEEN AND OBJECTED TO** by those Complainants listed below that have asserted claims of vested rights and only to the limited extent that the process established, and the time set for, determination of vested rights claims may not provide for the proper adjudication of those claims as set out, and that the time for determination thereof should be shortened to avoid unnecessary expense and delay in the processing of plans and the identification of what vested rights do or may exist:

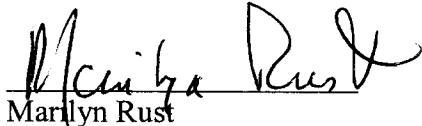
  
Deborah C. Welsh, Attorney-at-Law  
VSB No. 19565  
WELSH & LANHAM  
120 Edwards Ferry Road, NE  
Leesburg, Virginia 20176  
PH: 703.777.5590  
FX: 703.777.5780

On behalf of the following Complainants:

River Creek, L.L.C.	Board of Supervisors, et al.	22479
M B Waterford View, L.L.C.	Board of Supervisors, et al.	22480

SEEN AND OBJECTED TO for the reason that this Court is considering a determination of vested rights in the Toll Brothers cases which have been separated from the consolidation and that vested rights determination may have adverse impact upon the vested rights cases consolidated by this Order without providing a mechanism for considering the common issues in the Toll Brothers cases which may be shared by the consolidated cases. Objected to that the Order does not require delivery of documents to the depository; it requires a list of documents but not delivery and while it may be assumed it should be explicitly required. Objected to that the commencement of discovery is postponed unnecessarily and prevents the Complainants from pursuing their cases and deprives the Complainants of the opportunity to preserve evidence through discovery. Objected to that the Order was written and entered without opportunity to be heard. Complainants have had their cases pending since February and 120days later this Court continues to allow the postponement of the right of all Americans to have access to relief in their courts.

Watson & Pendzich

A handwritten signature in black ink, appearing to read "Marilyn Rust", is written over a horizontal line.

Marilyn Rust

P.O. Box 6352

Leesburg, Virginia 20178

703.777.1770

fax 540.338.3872

VSB 13466

Counsel for Louise L. Preble et al



**SEEN AND OBJECTED TO** by those Complainants listed below that have asserted claims of vested rights and only to the limited extent that the process established for, and the time set for, determination of vested rights claims may not suitably provide for the adjudication of those claims as set out, and that the time for determination thereof should be shortened to avoid unnecessary expense and delay in the processing of plans and the identification of what vested rights do or may exist:

By: John W. Farrell<sup>WSM</sup>  
John W. Farrell, Esquire VSB No. 23670  
William L. Carey, Esquire VSB No. 20715  
Counsel for Culmore Investment Properties, Inc.  
McCandlish & Lillard, P.C.  
11350 Random Hills Road, Suite 500  
Fairfax, Virginia 22030-7429  
(703) 934-1182  
(703) 352-4300  
On behalf of the following Complainants:

Kenneth Sherper <i>et al</i>	22545
Eagle Creek, LLC, <i>et al.</i>	22546
George Mokhiber, <i>et al.</i>	22547
Anthony G. Antoniolli, <i>et al.</i>	22549
J. Mark Caldwell, <i>et al.</i>	22550
Nichols/Farkas Joint Venture	22551
Waterford Creek, LP	22554

SEEN AND AGREED:

By: John W. Farrell <sup>LJM</sup>  
John W. Farrell, Esquire VSB No. 23670  
William L. Carey, Esquire VSB No. 20715  
Counsel for Culmore Investment Properties, Inc.  
McCandlish & Lillard, P.C.  
11350 Random Hills Road, Suite 500  
Fairfax, Virginia 22030-7429  
(703) 934-1182  
(703) 352-4300  
On behalf of the following Complainants:

Randall Kelly, <i>et al.</i>	22548
Wildwood Farms, LP	22552
South Auburn, LP, <i>et al.</i>	22553

**SEEN AND OBJECTED TO** by those Complainants listed below that have asserted claims of vested rights to the extent that the process established for, and the time set for, determination of vested rights claims may not suitably provide for the adjudication of those claims as set out, and that the time for determination thereof should be shortened to avoid unnecessary expense and delay in the processing of plans and the identification of what vested rights do or may exist and further to the extent that the Consolidated Decree #1 requires or contemplates that the Litigation Steering Committee participate in or control any of the vested rights portions of this litigation, and further that the requirement to consolidate violates these Complainants' rights to due process of law.

REED SMITH LLP

By: 

Grayson P. Hanes VSB #6614  
 E. William Chapman VSB #9240  
 Michael A. Banzhaf (VSB #28274)  
 Steven T. Webster (VSB #31975)  
 Aaron S. Book VSB #43868  
 44084 Riverside Parkway, Suite 300  
 Leesburg, VA 20176  
 (703) 729-8500  
 (703) 478-8003 (FAX)  
 On behalf of the following Complainants

<b>MHF, LLC v. Board of Supervisors, et al.</b>	22576
<b>Salvatore J. Cangiano v. Board of Supervisors, et al.</b>	22577
<b>Dulles/Berry Ltd. Partnership v. Board of Supervisors, et al.</b>	22578
<b>Pinebrook, LLC v. Board of Supervisors, et al.</b>	22581
<b>Selma Estates, LLC v. Board of Supervisors, et al.</b>	22582
<b>Waxpool Associates LLC, et al. v. Board of Supervisors, et al.</b>	22583
<b>Yoon S. Park, et al. v. Board of Supervisors, et al.</b>	22585
<b>R &amp; C Investments LC v. Board of Supervisors, et al.</b>	22587
<b>Brambleton Group, LLC, et al. v. Board of Supervisors, et al.</b>	22588
<b>Salvatore J. Cangiano v. Board of Supervisors, et al.</b>	22590
<b>The Drees Company v. Board of Supervisors, et al.</b>	22592
<b>Wright Farm, LLC v. Board of Supervisors, et al.</b>	22593
<b>H. Powers Thomas, et al. v. Board of Supervisors, et al.</b>	22596
<b>Byrd LLC, et al. v. Board of Supervisors, et al.</b>	22597
<b>T. William Dowdy, et al. v. Board of Supervisors, et al.</b>	22599
<b>Grenata, LLC v. Board of Supervisors, et al.</b>	22601
<b>Gerald C. Despain, et al. v. Board of Supervisors, et al.</b>	22603
<b>The Hamlets of Blue Ridge, LLC, et al. v. Board of Supervisors, et al.</b>	22607
<b>Chestnut Hills, LLC v. Board of Supervisors, et al.</b>	22610
<b>Equity Homes, LLC v. Board of Supervisors, et al.</b>	22611
<b>Beazer Homes Corp., et al. v. Board of Supervisors, et al.</b>	22613
<b>VMK Associates, et al. v. Board of Supervisors, et al.</b>	22614

<b>Salvatore J. Cangiano v. Board of Supervisors, et al.</b>	22619
<b>Salem Farms, LLC v. Board of Supervisors, et al.</b>	22620
<b>Pulte Home Corporation, et al. v. Board of Supervisors, et al.</b>	22621
<b>Riggs &amp; Company, et al. v. Board of Supervisors, et al.</b>	22623
<b>Lake Hill Associates, LC v. Board of Supervisors, et al.</b>	22624
<b>Glynn Tarra Estates, LLC v. Board of Supervisors, et al.</b>	22630
<b>Centex Homes v. Board of Supervisors, et al.</b>	22636
<b>Lansdowne Community Development, LLC, et al. v. Board of Supervisors, et al.</b>	22637
<b>Birchwood-Woodland Village Assoc. LLC v. Board of Supervisors, et al.</b>	22638
<b>Equity Homes, LLC v. Board of Supervisors, et al.</b>	22653
<b>Salvatore J. Cangiano v. Board of Supervisors, et al.</b>	22655
<b>Stone Ridge Comm. Dvlpmnt, LLC, et al. v. Board of Supervisors, et al.</b>	22656
<b>Xerox Realty Corporation v. Board of Supervisors, et al.</b>	22657

**SEEN AND OBJECTED TO** the extent that the requirement to consolidate violates these Complainants' rights to due process of law.

REED SMITH LLP

By: 

Grayson P. Hanes VSB #6614  
E. William Chapman VSB #9240  
Michael A. Banzhaf (VSB #28274)  
Steven T. Webster (VSB #31975)  
Aaron S. Book VSB #43868  
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(703) 478-8003 (FAX)  
On behalf of the following Complainants

<b>Brenda Guritsky, et al. v. Board of Supervisors, et al.</b>	22579
<b>Brenda Guritsky, et al. v. Board of Supervisors, et al.</b>	22580
<b>Sanford, LLC v. Board of Supervisors, et al.</b>	22586
<b>AllFirst Trust Company, NA, Trustee, et al. v. Board of Supervisors, et al.</b>	22594
<b>Hazout, S.A. v. Board of Supervisors, et al.</b>	22598
<b>Waterford Downs, LLC v. Board of Supervisors, et al.</b>	22609
<b>Leesburg Airport Associates LC v. Board of Supervisors, et al.</b>	22612
<b>Frazier Estates, LLC v. Board of Supervisors, et al.</b>	22615
<b>Old Wheatland Road, LLC, et al. v. Board of Supervisors, et al.</b>	22616
<b>Suzanne Wright, et al. v. Board of Supervisors, et al.</b>	22622
<b>Kline Operations, LC, et al. v. Board of Supervisors, et al.</b>	22625
<b>Stafford Kline, LLC v. Board of Supervisors, et al.</b>	22626
<b>Loyalty Road, LLC, et al. v. Board of Supervisors, et al.</b>	22627
<b>Loyalty Road LLC v. Board of Supervisors, et al.</b>	22628
<b>Courtland Farm Loudoun, LLC v. Board of Supervisors, et al.</b>	22629
<b>Loudoun Kline Vantage, LLC, et al. v. Board of Supervisors, et al.</b>	22631
<b>Dennis M. Virts, et al. v. Board of Supervisors, et al.</b>	22632
<b>Locust Grove, LLC v. Board of Supervisors, et al.</b>	22633
<b>Edward N. Pickering, et al. v. Board of Supervisors, et al.</b>	22654

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June 5, 2003

EDMUND L. WALTON, JR.  
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RANDALL T. GREEHAN  
T. DAVID STONER  
MARK G. FERGUSON\*▲  
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OF COUNSEL

STUART C. WHITE, P.C., SENIOR COUNSEL  
GEORGE A. SYMANSKI, JR., P.C.  
SOUTHY E. WALTON\*▲  
ROBERT L. HOWELL

HAND-DELIVERED

The Honorable Thomas D. Horne, Chief Judge  
Circuit Court for Loudoun County  
18 E. Market Street  
Leesburg, Virginia 20178

Re: *Zoning Ordinance Amendments Enacted by the Board of Supervisors of Loudoun County on January 6, 2003 (ZOAs), Consolidated Decree No. 1*

Dear Judge Horne:

We greatly appreciate the Court's taking the time to craft a decree covering all of the ZOA challenges. In preparation for tomorrow's hearing on the entry of Consolidated Decree No. 1 ("the Decree"), there are a few points on which we would ask you for some clarification. I trust that by providing the list below to the Court and to opposing counsel prior to the hearing it will expedite matters on Friday.

1. We believe that Chancery No. 22576 (MHF, L.L.C.) should be added to the list of cases challenging the ZOAs.
2. To date, 44 of the lawsuits on the Court's list of ZOA cases have not been served on the County Attorney. Given that the Decree contemplates the adjudication of claims in all of the ZOA cases, we believe those complainants should effect service. Mr. Roberts will agree to accept service on behalf of the Board, the County, and any County officials, from counsel of record in these cases. Will the Court order that copies of these lawsuits be provided to Mr. Roberts (e.g., within seven days of the entry of the Decree) so that any "common issues" in these cases can be identified?
3. Page 9, *Filing of Master Pleading* . . . , provides that the Respondents are to file their responsive pleadings to the Master Supplemental Pleading on October 3, 2003. When do you

want these responsive pleadings (such as demurrers and/or pleas in bar) to be argued -- at the November 24-26 hearing or at some time before that?

We are somewhat confused about the nature of the hearing scheduled for November 24-26, 2003. Although other hearings referenced in the Decree are specifically referred to as "evidentiary" hearings, this one is not, so we are assuming that this one is confined to legal arguments on the Master Supplemental Pleadings. Your guidance on what you anticipate from the parties at the November 24-26 hearing would be greatly appreciated.

4. Pages 18-19, ***Creation of Document Depository***, requires the collection of documents "that relate to" (i) the Revised General Plan; (ii) the Zoning Ordinance Amendments, (iii) all drafts of the Zoning Ordinance Amendments, . . . (vii) all motions or resolutions adopted by the Board or Planning Commission relating to the initiation of the consideration of the adoption of the Zoning Ordinance Amendments. Subparagraphs (iii) through (vii) appear to be subsets of subparagraph (ii). Further, County staff members with whom I have discussed the Decree have told me that to respond with all "related" documents would be incredibly burdensome because most of their departmental documents arguably "relate" in one fashion or another to the Revised General (Comprehensive) Plan or the Zoning Ordinance Amendments. They are concerned that this provision may put them (or the Respondents) in legal jeopardy if they fail to turn over a document that somehow might be argued to be "related" to these wide-ranging policies and regulations, while having nothing to do the actual consideration or adoption of the Plan or ZOAs. Would the Court consider replacing "that relate to" with "that directly relate to the consideration or adoption of" and removing subparagraphs (iii)-(vi)?
5. Page 19, ***List of Documents Provided to the Depository***, provides that a "list of the documents" that Respondents deem relevant to these proceedings be Bates stamped and that the list contain a "general description of the items" furnished. Documents pertaining to the actions leading up to and including the adoption of the ZOAs are already being compiled and listed by reference to their source: i.e., (i) County department and (ii) official/employee within that department. For example, Box 119 contains documents of Heidi Seibenteitt, Julie Pastor, Susan Berry-Hill, Sarah Coyle, and John Merrithew, all staff of the Department of Planning, relating to their involvement in the staff review of and recommendations for the ZOAs. Is this description sufficient? To undertake an individual listing of documents would take, literally, thousands of hours. To date, counsel for the Board has compiled 113 boxes of documents from County agencies and officials/employees specifically relating to the consideration and adoption of the Revised General Plan and the ZOAs. It is estimated that there are over 100,000 pages of documents these 113 boxes.
6. Page 22, ***Exhibit A***, Par. 5, states that the ***Response[s] to Vested Rights Claims*** are due on July 1, 2003. Is it possible that this is a typographical error since Par. 4 requires that the Complainants' ***Statements of Vested Rights Claims to be Filed*** be filed just one day earlier, on June 30, 2003?



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DIRECT DIAL: 703-714-7691  
EMAIL: mkinney@hunton.com

FILE NO: 61173.00006

June 5, 2003

**BY TELEFACSIMILE & U.S. MAIL**

Gary M. Clemens, Clerk  
Loudoun County Circuit Court  
18 North King Street  
Leesburg, Virginia 20178

**IN RE: ZONING ORDINANCE AMENDMENTS ENACTED BY THE BOARD OF  
SUPERVISORS OF LOUDOUN COUNTY ON JANUARY 6, 2003 (CONSOLIDATED  
CASES)**

Dear Mr. Clemens:

In accordance with your June 3, 2003 email correspondence to counsel, please find attached two endorsements of Consolidated Decree No. 1, which Judge Horne intends to enter in the referenced matter on June 6, 2003 at 10:00 a.m. If you do not receive two endorsements with this correspondence, please notify this office so that we may assure the Court's receipt of both endorsements before tomorrow's scheduled hearing.

Thank you for your attention to this matter.

Very truly yours,

Michael E. Kinney

Enclosures

cc: John R. Roberts, Esq. (by fax with enclosures)  
Randall T. Greehan, Esq. (by fax with enclosures)

7003 JUN -9 PM 1:03  
CLERK'S OFFICE  
LOU-OUN COUNTY, VA





June 5, 2003

Page 2

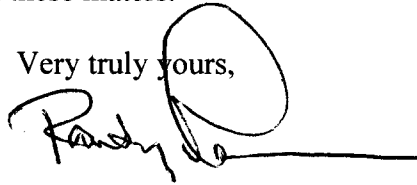
bcc: Francis A. McDermott, Esq.  
Stephen M. Sayers, Esq.  
John C. McGranahan, Esq.

The Honorable Thomas D. Horne, Chief Judge  
June 5, 2003  
Page 3

7. Page 23, **Exhibit A**, Par. 25, references the November 24-26, 2003, hearing on the common issues. Again, is this when Respondents are to argue demurrers and/or pleas in bar? Will the hearing be limited to legal arguments or evidentiary matters as well? Depending upon what issues are determined to be "common," do you envision expert testimony at that hearing? If so, when should expert designation information be provided to opposing counsel?

Thank you for your consideration of these matters.

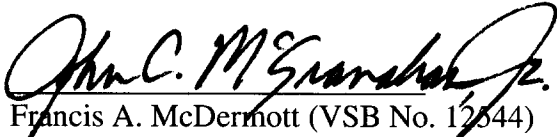
Very truly yours,

A handwritten signature in dark ink, appearing to read "Randy", followed by a long horizontal line extending to the right.

Randall T. Greehan

cc: Dowell Muse, Docket Manager, Circuit Court  
John R. Roberts, County Attorney  
All Counsel of Record for Complainants (via mail and fax; copies also sent via  
e-mail to Messrs. Foote, McDermott and Chapman)

**SEEN AND OBJECTED TO** by those Complainants listed below that have asserted claims of vested rights and only to the limited extent that the process established for, and the time set for, determination of vested rights claims may not suitably provide for the adjudication of those claims as set out, and that the time for determination thereof should be shortened to avoid undue expense and delay in the processing of plans and the identification of what vested rights do or may exist:



Francis A. McDermott (VSB No. 12544)

Stephen M. Sayers (VSB No. 23066)

John C. McGranahan, Jr. (VSB No. 31841)

Arthur E. Schmalz (VSB No. 36014)

HUNTON & WILLIAMS LLP

1751 Pinnacle Drive, Suite 1700

McLean, Virginia 22102

Telephone: (703) 714-7400

Facsimile: (703) 714-7410

On behalf of the following Complainants:

David L. Hunter, Chancery No. 22470

Batal Builders-Belle Terra, L.C., Chancery No. 22471

Batal Builders-Bodmer, L.C., Chancery No. 22472

Winchester Homes Inc., Chancery No. 22473

Winchester Homes Inc., Chancery No. 22474

Winchester Homes Inc., Chancery No. 22475

Winchester Homes Inc., Chancery No. 22476

Winchester Homes Inc., Chancery No. 22477

South Village Land, L.L.C., *et al.*, Chancery No. 22478

Two Greens/Kirkpatrick LLC, Chancery No. 22495

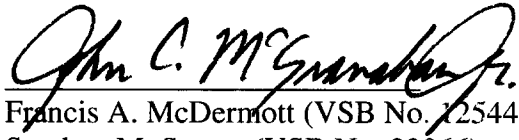
Fox Hall L.C., Chancery No. 22496

Cascades/Lowes Island LLC, Chancery No. 22497

Evergreen Associates L.C., *et al.*, Chancery No. 22500

Hunter Properties, Inc., Chancery No. 22503

**SEEN AND AGREED:**



Francis A. McDermott (VSB No. 12544)

Stephen M. Sayers (VSB No. 23066)

John C. McGranahan, Jr. (VSB No. 31841)

Arthur E. Schmalz (VSB No. 36014)

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On behalf of the following Complainants:

South Orchard L.C., Chancery No. 22448

Roland L.C., Chancery No. 22449

Route 705 L.C., Chancery No. 22450

Yardland L.C., Chancery No. 22451

Route 620 L.C., Chancery No. 22452

Broad Run Village L.C., Chancery No. 22453

Highland Properties L.C., Chancery No. 22454

Braddock II, L.C., Chancery No. 22455

Loveland L.C., Chancery No. 22456

Braddock West L.C., Chancery No. 22457

Two Greens/Braddock LLC, *et al.*, Chancery No. 22463

Evergreen Associates L.C., Chancery No. 22464

Loyalty Associates L.C., Chancery No. 22465

Wray S. Dawson, Trustee, *et al.*, Chancery No. 22466

Gum Springs Associates L.C., Chancery No. 22467

Prince L.C., Chancery No. 22468

David L. Hunter, Chancery No. 22492

Lee Jackson Shockey, *et al.*, Chancery No. 22493

Lee Jackson Shockey, *et al.*, Chancery No. 22494

Lee Jackson Shockey, *et al.*, Chancery No. 22498

Prairie LLC, Chancery No. 22499

Henry C. Mackall, *et al.*, Chancery No. 22501

Jonathan C. St. Clair, Sr., *et al.*, Chancery No. 22502

Douglas D. Walker, Chancery No. 22504

Henry C. Mackall, *et al.*, Chancery No. 22505

Curtis C. Shockley, *et al.*, Chancery No. 22506



WALSH COLUCCI  
LUBELEY EMRICH  
& TERPAK PC

John H. Foote  
(703) 330-7400 Ext. 13  
jfoote@mn.thelandlawyers.com

**FACSIMILE TRANSMITTAL**

**CONFIDENTIALITY NOTE:** The information transmitted in this facsimile message is sent by an attorney or his/her agent. It is intended to be confidential and for the use of only the individual or entity addressee. If the recipient is a client, this message may also be for the purpose of rendering legal advice and thereby privileged. If the reader of this message is not the intended recipient, you are hereby notified that any retention, dissemination, distribution or copy of this telecopy is strictly prohibited. If you have received this facsimile in error, please immediately notify us by telephone and return the original message to us at the address below via the mail service. (We will reimburse postage.) Thank You!

**DATE:** June 5, 2003

**TO:** Gary M. Clemens, Clerk, 1-703-777-0376

**FROM:** John H. Foote

**RE:** Chancery No. ZOA03

**TOTAL PAGES TRANSMITTED, INCLUDING COVER:** 5

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**COMMENTS:**

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ATTORNEYS AT LAW



WALSH COLUCCI  
LUBELEY EMRICH  
& TERPAK PC

June 5, 2003

*Via Facsimile*

Gary M. Clemens, Clerk  
Loudoun County Circuit Court  
18 E. Market Street  
Leesburg, VA 20178

Re: Zoning Ordinance Amendments Enacted by the Board of Supervisors of  
Loudoun County on January 6, 2003 (Consolidated Cases)  
Chancery No. #ZOA03 (Consolidated)

Dear Mr. Clemens:

Attached is the signature page representing Walsh Colucci, Lubeley, Emrich & Terpak PC's clients which should be attached to the pre-trial order in connection with the above-captioned matter, which is scheduled for entry by Judge Horne on June 6<sup>th</sup>.

Sincerely yours,

WALSH, COLUCCI, LUBELEY,  
EMRICH & TERPAK, P.C.

Wendy Alexander

WA/ame

cc: John R. Roberts, Esq.  
Randall T. Greehan, Esq.

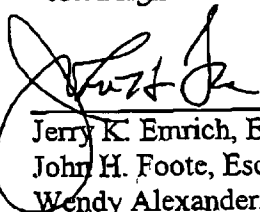
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ATTORNEYS AT LAW

**SEEN AND OBJECTED TO** by those Complainants listed below that have asserted claims of vested rights and only to the limited extent that the process established for, and the time set for, determination of vested rights claims may not suitably provide for the adjudication of those claims as set out, and that the time for determination thereof should be shortened to avoid unnecessary expense and delay in the processing of plans and the identification of what vested rights do or may exist:



Jerry K. Emrich, Esq. VSB# 4732

John H. Foote, Esq. VSB# 14336

Wendy Alexander, Esq. VSB# 42547

9324 West Street, Suite 300

Manassas, VA 20110

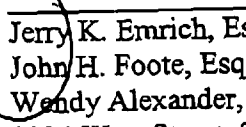
(703) 330-7400

(703) 330-7430 fax

On behalf of the following Complainants:

Barclay Ridge, LLC	Board of Supervisors, et al.	22507
Elysian Land, Inc., et al.	Board of Supervisors, et al.	22515
Waxpool Village, L.C.	Board of Supervisors, et al.	22527
Roy Stiltner, et al.	Board of Supervisors, et al.	22532
Papac Silo Creek, LLC	Board of Supervisors, et al.	22538
Washington Homes, Inc. of Virginia	Board of Supervisors, et al.	22558
Beaumeade Technology Park, LLC	Board of Supervisors, et al.	22559
Gilberts Corner Limited Partnership	Board of Supervisors, et al.	22560
Wright Farm, LLC	Board of Supervisors, et al.	22562
Comstock Flynns Crossing, LC	Board of Supervisors, et al.	22563
Rose Hill Estates, Inc.	Board of Supervisors, et al.	22564
Foothills, LLC, et al.	Board of Supervisors, et al.	22567
PVR, LLC	Board of Supervisors, et al.	22568
NCL V, LLC	Board of Supervisors, et al.	22569
Rock Springs Properties, LLC	Board of Supervisors, et al.	22573
Burke and Herbert Bank & Trust Co.	Board of Supervisors, et al.	22574
Four Sons Family, LLC	Board of Supervisors, et al.	22608
Nancy H. O'Connor, Life Tenant et al.	Board of Supervisors, et al.	22648

## SEEN AND AGREED:

  
 Jerry K. Emrich, Esq. VSB# 4732  
 John H. Foote, Esq. VSB# 14336  
 Wendy Alexander, Esq. VSB# 42547  
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 (703) 330-7430 fax

On behalf of the following Complainants:

Albert E. Mercker, Jr., et al.	Board of Supervisors, et al.	22508
Triple Crown Endeavors, Ltd.	Board of Supervisors, et al.	22509
Suzanne W. Wright, Trustee	Board of Supervisors, et al.	22510
Brian & Lisa Burke	Board of Supervisors, et al.	22511
Glenn R. Noffsinger	Board of Supervisors, et al.	22512
Westview Stables, Inc.	Board of Supervisors, et al.	22513
Timothy J. Opeka, et al.	Board of Supervisors, et al.	22514
Estate of Albert Moran,	Board of Supervisors, et al.	22516
Phillip Smith		
Michael E. Cummins, et al.	Board of Supervisors, et al.	22517
Donald J. Evans, et al.	Board of Supervisors, et al.	22518
Rita Digiulian	Board of Supervisors, et al.	22519
George Allen Parker	Board of Supervisors, et al.	22520
John P. Wood, et al.	Board of Supervisors, et al.	22521
James B. Cross, LLC, et al.	Board of Supervisors, et al.	22522
George R. Huber, et al.	Board of Supervisors, et al.	22523
Soheid N. Assaad	Board of Supervisors, et al.	22524
Richard W. Phelps	Board of Supervisors, et al.	22525
Lovettsville Sunrise Limited	Board of Supervisors, et al.	22526
Partnership		
Henry S. Fiedler, Trustee	Board of Supervisors, et al.	22528
Wyant Farm Associates,	Board of Supervisors, et al.	22529
E.J. Wyant, Trustee		
KEG Associates, II, et al.	Board of Supervisors, et al.	22530
William K. Reilly, et al.	Board of Supervisors, et al.	22531
William H. Cockerill, Jr.	Board of Supervisors, et al.	22533
Edward H. Sunshine, et al.	Board of Supervisors, et al.	22534
James William Leigh	Board of Supervisors, et al.	22535
Mark A. Johnson, et al.	Board of Supervisors, et al.	22536
Brent H. Mercke	Board of Supervisors, et al.	22537
Estate of Albert Moran, by P/R	Board of Supervisors, et al.	22556
Phillip Smith		
Nancy H. O'Connor, et al.	Board of Supervisors, et al.	22557



Alba Financial Corporation, et al.	Board of Supervisors, et al.	22561
Herbert J. Miller, Jr., et al.	Board of Supervisors, et al.	22565
Randolph D. Rouse, Trustee	Board of Supervisors, et al.	22566
Mill Road Farm, Inc., et al.	Board of Supervisors, et al.	22570
Cornell/Loudoun Farm, LLC	Board of Supervisors, et al.	22571
Mary J. Windle, et al.	Board of Supervisors, et al.	22572
Estate of Anne D. Cockerill, et al.	Board of Supervisors, et al.	22604
Fort Bacon Farm, Inc.	Board of Supervisors, et al.	22605
William H. Cockerill, Jr.	Board of Supervisors, et al.	22606

J:\16\1688\Loudoun Downzoning\PLEADINGS\Signature Page for WCLET on PTO1.doc



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MCLEAN, VIRGINIA 22102

TEL 703 • 714 • 7400  
FAX 703 • 714 • 7410

**FAX**

TO	NAME:	FIRM:	TEL:	FAX NO:
	Gary M. Clemens, Clerk	Loudoun Circuit Court	(703) 777-0270	(703) 777-0376
	John R. Roberts, Esquire	County of Loudoun	(703) 777-0478	(703) 771-5025
	Randall T. Greehan, Esquire	Walton & Adams, P.C.	(703) 790-8000	(703) 790-8016

PAGES (INCLUDING COVER): 3

ORIGINAL TO FOLLOW IN MAIL: ☐ Yes ☐ No

FROM NAME: John C. McGranahan, Jr.  
DIRECT DIAL: 703-714-7464

MESSAGE Please see the attached correspondence and attached endorsements of Consolidated Decree No. 1.  
Thank you.

IF PROBLEM WITH TRANSMISSION, PLEASE CONTACT OPERATOR AT 703 • 714 • 7500 .

OPERATOR Cherie Seibert  
DATE: June 5, 2003  
TIME:  
CLIENT/MATTER NAME: 61173  
CLIENT/MATTER NO.: .000006

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MICHAEL E. KINNEY  
DIRECT DIA: 703-714-7691  
EMAIL: mkinney@hunton.com

FILE NO: 61173.00006

June 5, 2003

**BY TELEFACSIMILE & U.S. MAIL**

Gary M. Clemens, Clerk  
Loudoun County Circuit Court  
18 North King Street  
Leesburg, Virginia 20178

**IN RE: ZONING ORDINANCE AMENDMENTS ENACTED BY THE BOARD OF  
SUPERVISORS OF LOUDOUN COUNTY ON JANUARY 6, 2003 (CONSOLIDATED  
CASES)**

Dear Mr. Clemens:

In accordance with your June 3, 2003 email correspondence to counsel, pleased find attached two endorsements of Consolidated Decree No. 1, which Judge Horne intends to enter in the referenced matter on June 6, 2003 at 10:00 a.m. If you do not receive two endorsements with this correspondence, please notify this office so that we may assure the Court's receipt of both endorsements before tomorrow's scheduled hearing.

Thank you for your attention to this matter.

Very truly yours,

A handwritten signature in dark ink, appearing to be "M. Kinney".

Michael E. Kinney

Enclosures

cc: John R. Roberts, Esq. (by fax with enclosures)  
Randall T. Greehan, Esq. (by fax with enclosures)

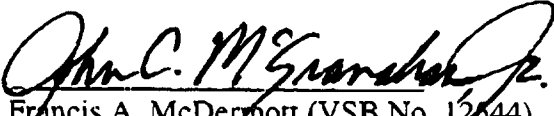


June 5, 2003

Page 2

bcc: Francis A. McDermott, Esq.  
Stephen M. Sayers, Esq.  
John C. McGranahan, Esq.

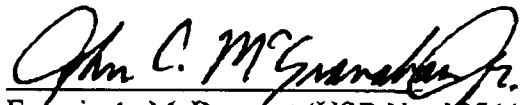
**SEEN AND OBJECTED TO** by those Complainants listed below that have asserted claims of vested rights and only to the limited extent that the process established for, and the time set for, determination of vested rights claims may not suitably provide for the adjudication of those claims as set out, and that the time for determination thereof should be shortened to avoid undue expense and delay in the processing of plans and the identification of what vested rights do or may exist:



Francis A. McDermott (VSB No. 12544)  
Stephen M. Sayers (VSB No. 23066)  
John C. McGranahan, Jr. (VSB No. 31841)  
Arthur E. Schmalz (VSB No. 36014)  
HUNTON & WILLIAMS LLP  
1751 Pinnacle Drive, Suite 1700  
McLean, Virginia 22102  
Telephone: (703) 714-7400  
Facsimile: (703) 714-7410

On behalf of the following Complainants:

David L. Hunter, Chancery No. 22470  
Batal Builders-Belle Terra, L.C., Chancery No. 22471  
Batal Builders-Bodmer, L.C., Chancery No. 22472  
Winchester Homes Inc., Chancery No. 22473  
Winchester Homes Inc., Chancery No. 22474  
Winchester Homes Inc., Chancery No. 22475  
Winchester Homes Inc., Chancery No. 22476  
Winchester Homes Inc., Chancery No. 22477  
South Village Land, L.L.C., *et al.*, Chancery No. 22478  
Two Greens/Kirkpatrick LLC, Chancery No. 22495  
Fox Hall L.C., Chancery No. 22496  
Cascades/Lowes Island LLC, Chancery No. 22497  
Evergreen Associates L.C., *et al.*, Chancery No. 22500  
Hunter Properties, Inc., Chancery No. 22503

**SEEN AND AGREED:**

Francis A. McDermott (VSB No. 12544)  
Stephen M. Sayers (VSB No. 23066)  
John C. McGranahan, Jr. (VSB No. 31841)  
Arthur E. Schmalz (VSB No. 36014)  
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On behalf of the following Complainants:

South Orchard L.C., Chancery No. 22448  
Roland L.C., Chancery No. 22449  
Route 705 L.C., Chancery No. 22450  
Yardland L.C., Chancery No. 22451  
Route 620 L.C., Chancery No. 22452  
Broad Run Village L.C., Chancery No. 22453  
Highland Properties L.C., Chancery No. 22454  
Braddock II, L.C., Chancery No. 22455  
Loveland L.C., Chancery No. 22456  
Braddock West L.C., Chancery No. 22457  
Two Greens/Braddock LLC, *et al.*, Chancery No. 22463  
Evergreen Associates L.C., Chancery No. 22464  
Loyalty Associates L.C., Chancery No. 22465  
Wray S. Dawson, Trustee, *et al.*, Chancery No. 22466  
Gum Springs Associates L.C., Chancery No. 22467  
Prince L.C., Chancery No. 22468  
David L. Hunter, Chancery No. 22492  
Lee Jackson Shockey, *et al.*, Chancery No. 22493  
Lee Jackson Shockey, *et al.*, Chancery No. 22494  
Lee Jackson Shockey, *et al.*, Chancery No. 22498  
Prairie LLC, Chancery No. 22499  
Henry C. Mackall, *et al.*, Chancery No. 22501  
Jonathan C. St. Clair, Sr., *et al.*, Chancery No. 22502  
Douglas D. Walker, Chancery No. 22504  
Henry C. Mackall, *et al.*, Chancery No. 22505  
Curtis C. Shockley, *et al.*, Chancery No. 22506

# WELSH & LANHAM PLC

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## FACSIMILE TRANSMISSION SHEET

DATE: 6/5/03 6:03 PM

TO: **703.777.0376**  
Clerk of Court  
LOUDOUN COUNTY CIRCUIT COURT

FROM: Regina E. Rohrer  
Administrative Assistant to  
Deborah C. Welsh, Attorney-at-Law

RE: In Re: 1-6-03 Zoning Ordinance Amendments

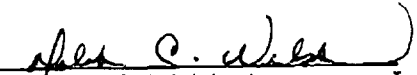
River Creek, L.L.C. v. Board of Supervisors of  
Loudoun County, Virginia, et al. - Chancery No.  
22479

M B Waterford View, L.L.C. v. River Creek, L.L.C. v.  
Board of Supervisors of Loudoun County, Virginia,  
et al. - Chancery No. 22480

DOCUMENT DESCRIPTION	NO. OF PAGES
"Seen and Objected to" signature page	1

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**SEEN AND OBJECTED TO** by those Complainants listed below that have asserted claims of vested rights and only to the limited extent that the process established, and the time set for, determination of vested rights claims may not provide for the proper adjudication of those claims as set out, and that the time for determination thereof should be shortened to avoid unnecessary expense and delay in the processing of plans and the identification of what vested rights do or may exist:

  
Deborah C. Welsh, Attorney-at-Law

VSF No. 19565

WELSH & LANHAM

120 Edwards Ferry Road, NE

Leesburg, Virginia 20176

PH: 703.777.5590

FX: 703.777.5780

On behalf of the following Complainants:

River Creek, L.L.C.

Board of Supervisors, et al.

22479

M B Waterford View, L.L.C.

Board of Supervisors, et al.

22480

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# LeCLAIR RYAN

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TELEPHONE: (804) 783-2003

WASHINGTON, D. C. OFFICE:  
TELEPHONE: (202) 659-4140

June 5, 2003

**FILE**

***BY FACSIMILE 703-777-0676 and U.S. Mail***

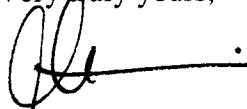
The Honorable Thomas D. Horne, Chief Judge  
Circuit Court for Loudoun County  
18 E. Market Street  
Leesburg, Virginia 20178

**Re: Zoning Ordinance Amendment Enacted by the Board of Supervisors on  
January 6, 2003 - Consolidated Decree**

Dear Judge Horne:

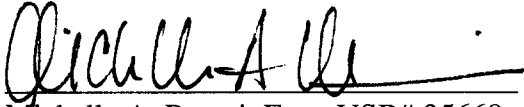
Enclosed please find Complainant's response to the proposed Consolidated Decree that the Court will enter tomorrow morning. Thank you very much.

Very truly yours,



Michelle A. Rosati  
LeCLAIR RYAN  
Counsel for Complainant Gilberts Corner Investments  
Loudoun County Chancery No. 22642

**SEEN AND OBJECTED TO** by the Complainant listed below only to the limited extent that the process established for, and the time set for, determination of vested rights claims may not suitably provide for the adjudication of those claims as set out, and that the time for determination thereof should be shortened to avoid unnecessary expense and delay in the processing of plans and the identification of what vested rights do or may exist:



Michelle A. Rosati, Esq., VSB# 35668

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225 Reinekers Lane

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Alexandria, Virginia 22314

(703) 684-8007

(703) 684-8075 Fax

On behalf of the following Complainant:

GILBERTS CORNER INVESTMENTS

Loudoun County, *et al.*

22642